

IN THE MATTER OF

Dr. Hari P. Close, II

Mortician License No. M01037

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BEFORE THE MARYLAND

BOARD OF MORTICIANS AND

FUNERAL DIRECTORS

PRE-CHARGE CONSENT ORDER OF PROBATION AND FINE

BACKGROUND

On or about April 22, 2021, the Board of Morticians and Funeral Directors (“the Board”) received a complaint regarding a contract between the Complainant and Dr. Hari P. Close (“the Respondent”), license number M01037, for cremation and final disposition of the Decedent, who had lived with the Complainant. The Board requested a response to the complaint from the Respondent. On or about May 10, 2021, the Board received a response from the Respondent, along with documentation of the Respondent’s funeral arrangements for the Decedent with the Complainant.

Based upon the complaint, the Respondent’s response and documentation, as well as the Board’s inquiry into the matter, on June 3, 2021, the Board conducted a complaint resolution conference (“CRC”) with the Respondent, in an attempt to reach a resolution of this matter prior to the issuance of formal charges.

The Respondent and the Board subsequently agreed to the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

The Board finds that:

1. At all times relevant, the Respondent was and is licensed to practice mortuary science in the State of Maryland under license number M01307.
2. On March 17, 2021, the Complainant called the Respondent to inform him of the Decedent’s death. The Decedent was then being held at the Office of the Chief Medical Examiner. The Complainant told the Respondent that she had been “living with” the decedent. The Complainant did not

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assert herself as the “domestic partner” or qualify herself as being “married” to the decedent prior to his death. The Complainant requested that the Respondent provide funeral services pursuant to a contract between the Complainant and the Respondent’s business, Hari P. Close Funeral Service, P.A.

3. On March 18, 2021, the Respondent received a call from one of the Decedent’s siblings, stating that the Respondent should not pick up the Decedent’s remains from the Office of the Chief Medical Examiner.

4. The Respondent did not require an affidavit of domestic partnership from the Complainant in order to resolve the conflicting instructions, or to clarify the Complainant’s authority to make final arrangements for the Decedent’s remains, as set forth in Maryland Code Annotated, Health Occupations Article (“Health Occ.”) § 7-410(c) and Health-General Article (“Health-Gen.”) § 5-509(c).

5. The Complainant met with the Respondent on March 19, 2021 to discuss the final disposition of the Decedent’s remains. The Complainant also showed the Respondent a text message from one of the Decedent’s siblings, indicating that the Complainant should make the arrangements for the Decedent’s final disposition.

6. The sibling who sent the text to the Complainant was not the sibling who had lodged an objection to the Complainant’s final disposition of the Decedent by the call to the Respondent on March 18, 2021.

7. The Complainant and the Respondent executed a contract for the cremation of the Decedent on March 19, 2021, and the Decedent was cremated.

8. On March 19, 2021, the Respondent filed the Decedent’s Maryland Death Certificate, listing the Complainant as a “domestic partner” to the Decedent, which the Respondent did not substantiate.

9. On March 21, 2021, the Decedent’s siblings requested a meeting with the Respondent. At that meeting, the siblings of the Decedent indicated that they would challenge the Complainant’s possession

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of the cremated remains of the Decedent. The Respondent and the Decedent's siblings agreed that the Decedent's siblings and the Complainant would each seek a Court order in support of their claim to the Decedent's cremated remains.

CONCLUSIONS OF LAW

Based on the foregoing findings of fact, the Board concludes that by knowingly granting the Complainant priority over the Decedent's siblings in making funeral and final dispositions arrangements despite a conflict in violation of Health Occ. § 7-410(c) and Health-Gen. § 5-509(c), and by failing to obtain sufficient documentation of a domestic partnership between the Complainant and the Decedent prior to cremating the Decedent in accordance with the provisions of Health Gen. § 6-101, and by filing an inaccurate certificate of death for the Decedent, the Respondent acted in an unprofessional manner in violation of Health Occ. § 7-316(a)(26), which states:

(a) Subject to the hearing provisions of § 7-319 of this subtitle and except as to a funeral establishment license, the Board may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if the applicant or licensee:

...

(26) Commits an act of unprofessional conduct in the practice of mortuary science;

Health Occ. § 7-410(c) provides:

Unless a person has knowledge that contrary directions have been given by the decedent, if a decedent has not executed a document under subsection (a) of this section, the following persons, in the order of priority stated, have the right to arrange for the final disposition of the body of the decedent under this section and are liable for the reasonable costs of preparation, care and disposition of the decedent:

(1) The surviving spouse or domestic partner, as defined in § 1-101 of the Health-General Article,¹ of the decedent;

¹ A domestic partner is defined as "an individual who meets the requirements of § 6-101 of this article."

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- (2) An adult child of the decedent;
- (3) A parent of the decedent;
- (4) An adult brother or sister of the decedent;
- (5) A person acting as a representative of the decedent under a signed authorization of the decedent;
- (6) The guardian of the person of the decedent at the time of the decedent's death, if a guardian has been appointed; or
- (7) in the absence of any person under items (1) through (6) of this subsection, any other person willing to assume the responsibility to act as the authorizing agent for the purpose of arranging the final disposition of the decedent's body, including the personal representative of the decedent's estate, after attesting in writing that a good faith effort has been made to no avail to contact the persons described in items (1) through (6) of this subsection.

Health Gen. §6-101 provides:

(a) In this title, "domestic partnership" means a relationship between two individuals who:

- (1) Are at least 18 years old;
- (2) Are not related to each other by blood or marriage within four degrees of consanguinity under civil law rule;
- (3) Are not married or in a civil union or domestic partnership with another individual; and
- (4) Agree to be in a relationship of mutual interdependence in which each individual contributes to the maintenance and support of the other individual and the relationship, even if both individuals are not required to contribute equally to the relationship.

This section also lists documents which may be required of an individual asserting a domestic partnership, including an affidavit of domestic partnership signed under penalty of perjury. Health Gen. § 6-101(b)(1).

Health Gen. § 5-509(c)(2) provides:

Unless a person has knowledge that contrary directions have been given by the decedent, if a decedent has not executed a document under subsection (a) of this section, the following persons, in the order of priority stated, have the right to arrange for the final disposition of the body of the decedent including by cremation under § 5-502 of this section:

- (1) The surviving spouse or domestic partner of a decedent;
- (2) An adult child of the decedent;
- (3) A parent of the decedent;
- (4) An adult brother or sister of the decedent;

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- (5) An adult grandchild of the decedent;
- (6) A person acting as a representative of the decedent under a signed authorization of the decedent that does not meet the requirements of subsection (b) of this section;
- (7) The guardian of the person of the decedent at the time of the decedent's death, if one has been appointed; or
- (8) In the absence of any person under items (i) through (vii) of this item, any other person willing to assume the responsibility to act as the authorizing agent, including the personal representative of the decedent's estate, after attesting in writing that a good faith effort has been made to no avail to contact the individuals under (i) through (vii) of this item.

In the situation presented to the Respondent in this case, an affidavit of domestic partnership would have reduced confusion and firmly established the order of priority of the Complainant as the Decedent's authorizing agent under Health Occ. § 7-410(c) and Health-Gen. § 5-509(c). Generally-accepted standards of professional conduct within the Board's licensing community require more robust documentation of a domestic partnership prior to accepting that the domestic partner of a decedent is the proper authorizing agent for final disposition under Health Occ. § 7-410(c)(2) and Health Gen. § 5-509(c)(2). The Board concludes that it was incumbent upon the Respondent to require an affidavit of domestic partnership from the Complainant, particularly in light of the disagreement about final disposition among the Decedent's siblings. The Respondent's failure to seek this documentation constituted unprofessional conduct in the practice of mortuary science, in violation of Health Occ. § 7-316(a)(26).

Health General Occ. § 4-212 provides:

- (g) A mortician who obtains a certificate of death under this section shall file the certificate within 72 hours after the death.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby:

ORDERED that the Respondent's license to practice mortuary science in the State of Maryland, number M01037, is hereby placed on **PROBATION** for a minimum of **ONE (1) YEAR** from the effective date of this Order, subject to the following conditions:

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1. The Board's website shall list the status of the Respondent's license to practice mortuary science in Maryland as on probation;

2. The Respondent shall pay a monetary fine of **THREE THOUSAND DOLLARS (\$3,000.00)**, in full, by money order or cashier's check made payable to the Board and delivered personally or by certified mail to the Board within **THIRTY (30) DAYS** of the effective date of this Order. Failure to pay this monetary fine in full to the Board within **THIRTY (30) DAYS** of the effective date of this Consent Order shall constitute a violation of this Consent Order;

3. The Respondent shall refrain from teaching any course for Continuing Education Unit ("CEU") credit to be awarded to licensees by the Board, for the duration of the probationary period;

4. The Respondent shall complete an ethics course, to be pre-approved by the Board, within **SIX (6) MONTHS** of the effective date of this Consent Order. This ethics course shall not be credited toward the required CEU credits for the Respondent's next license renewal. Failure to submit documentation of completion of the Board-approved ethics course within **SIX (6) MONTHS** of the effective date of this Consent Order shall constitute a violation of this Consent Order;

5. The Respondent shall amend or edit the death certificate of the Decedent whose disposition was the subject of this Consent Order, to accurately reflect any relationship between the Complainant and the Deceased. A copy of the amended or edited death certificate shall be provided to the Board within **FORTY-FIVE (45) DAYS** of the effective date of this Consent Order. Failure to submit a copy of the amended or edited death certificate of the Decedent to the Board within **FORTY-FIVE (45) DAYS** of the effective date of this Consent Order shall constitute a violation of this Consent Order;

6. The Respondent is responsible for the cost of compliance with the terms and conditions set forth in this Consent Order; and it is further

ORDERED that the Respondent is responsible for any costs associated with the compliance with

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this Consent Order; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of this probation or this Consent Order, the Board, in its discretion, after notice and an opportunity for an evidentiary hearing before the Board, if there is a genuine dispute as to material fact, or an opportunity for a show cause hearing before the Board, may impose any other disciplinary sanction which the Board is statutorily authorized to impose in this case under Health Occ. § 7-316, including a reprimand, additional probation, suspension, or revocation, and/or additional monetary fine, said violation being proven by a preponderance of the evidence; and it is further

ORDERED that if the Respondent violates any of the terms and conditions of this Consent Order, the Board, in its discretion, may pursue further disciplinary action under Health Occ. § 7-316(a); and it is further

ORDERED that no earlier than **ONE (1) YEAR** from the effective date of this Consent Order, the Board may consider a petition for termination of the Respondent's probationary status, provided that the he has satisfactorily complied with the probationary terms of this Consent Order; and it is further

ORDERED that the Respondent shall comply with the Maryland Morticians and Funeral Directors Act, Health Occ., § 7-101 *et seq.*, and all federal and State laws and regulations governing the practice of funeral services and cremation in Maryland; and it is further

ORDERED that this is a Final Decision and Order of the Board and, as such, is a **PUBLIC DOCUMENT** pursuant to Maryland Code Annotated, General Provisions Article § 4-101 *et seq.*

07/07/2021

Date



Mark E. Bailey, Ed.D., President
Maryland State Board of Morticians and Funeral Directors

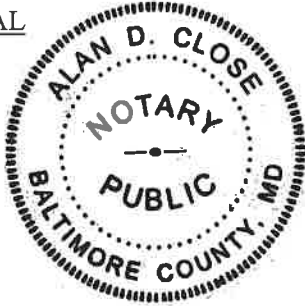
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made oath in due form of law that the foregoing Consent Order was the voluntary act and deed of **Dr.**

Hari P. Close, II.

AS WITNESSETH my hand and Notarial Seal.

SEAL





Notary Public

My Commission Expires: 2-22-22


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CONSENT

By this Consent, I acknowledge that I have read this Consent Order in its entirety and I hereby admit the truth of the Findings of Fact and accept and submit to the foregoing Consent Order, probation, and its conditions. I acknowledge the legal authority and jurisdiction of the Board to initiate these proceedings and to issue and enforce this Consent Order. I acknowledge the validity of this Consent Order as if entered into after the conclusion of a formal evidentiary hearing in which I would have had the right to legal counsel authorized to practice law in Maryland, to confront witnesses, to give testimony, to request subpoenas for witnesses, to call witnesses on my own behalf, to introduce testimony and evidence on my own behalf, and to all other substantive and procedural protections provided by law. I waive these rights, as well as any appeal rights under Maryland Code Annotated, State Government Article § 10-222.

I sign this Consent Order after having an opportunity to consult with an attorney, voluntarily and without reservation, and I fully understand and comprehend the language, meaning, terms, and effect of this Consent Order.

6/29/21
Date


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NOTARIZATION

STATE: Maryland

CITY/COUNTY: Baltimore City

I HEREBY CERTIFY that on this 29th day of June, 2021, before me, a Notary Public of the State and City/County aforesaid, personally appeared **Dr. Hari P. Close, II** and